



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 15, 2008

Honorable Martha Fuller Clark, Chairman
Committee on Energy, Environment and Economic Development
Room 102 Legislative Office Building
Concord, NH 03301

RE: Senate Bill 384, relative to the repair of septic systems prior to the sale of waterfront property

Dear Chairman Clark:


The Department of Environmental Services (DES) is pleased to provide testimony on Senate Bill 384, relative to the repair of septic systems prior to the sale of waterfront property. DES supports this bill in concept. However, we believe that there is a need to establish a clear protocol for the determination of septic system failures for effective implementation of this bill.

Since 1989, RSA 485-A:39 has required that persons selling waterfront property engage a permitted septic system designer to assess the septic system serving the property and provide copies of that assessment to prospective buyers. Amendments adopted in 1995 and 1996 clarified the point in the sales process when that assessment was to pass from the seller to the buyer. Requiring that the seller provide the buyer a copy of the site assessment at the time that a purchase and sales agreement is executed assures that the buyer is informed about the condition of the septic system serving the subject property.

We are aware that licensed septic system designers have experienced difficulties in completing site assessment forms because of ambiguities as to how to apply the statutory and regulatory definition of "failure" when determining the condition of a septic system and what, if any, remedial action might be necessary. RSA 485-A:2, IV and Env-Ws 1002.28 define septic system failure as *"the condition produced when a subsurface sewage or waste disposal system does not properly contain or treat sewage or causes or threatens to cause the discharge of sewage on the ground surface or into adjacent surface or groundwaters."* Professionals in the sewage disposal field have difficulty in applying this definition to particular sites. This can result in unnecessary expense for homeowners as well as confusion for local officials as to exactly when remedial action is necessary for a specific septic system. To resolve this concern, we believe that the bill should be amended to clearly establish the exact protocol to be employed by licensed septic system designers to determine if a septic system is in failure and, therefore, in need of remedial action.

Thank you for this opportunity to comment on this bill. Please feel free to call me at 271-3503, or Mr. Rene Pelletier at 271-2951 if you have any questions or need additional information.

Very truly yours,


Thomas S. Burack
Commissioner

cc: Senators Sgambati, Janeway, Gilley, Odell
Representatives Wheeler, Millham, Wood, Pilliod, and Spang

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